THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P. NO. 27781 of 1998

DATED: 14-03-2007

Between:-

1. Kolli Papa Rao s/o Lakshmaiah, age 60 years, occ: Panshop
2. Mandava Veerabhadra Rao s/o Prakasa Rao, age 50 years, occ: Cultivation,
3. Mandava Nageswara Rao s/o Narayana Rao, age 38 years, occ: Cultivation,
4. Kuchipudi Srinivasa Rao, age 29 years, occ: private Business
5. Chitturi Nagabhushanam s/o Bapanaiah, age 47 years, occ: Private Business
6. Kuchipudi Satyanarayana s/o Krishna Murthy, age 27 years, occ: Cultivation,
7. Puvvada Ramakrishna Rao s/o Nagabhushanam, aged 28 years, occ: Cultivation,
8. Mandava Kutumba Rao s/o Ramaiah, age 60 years, occ: Agriculture
9. Deekollu Venkateswara Rao s/o Seshagiri Rao, age 45 years,

All residents of Movva village and Mandal, Krishna District.

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PETITIONERS

And

The Manadal Revenue Officer, Movva Mandal, Krishna District.

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RESPONDENT

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P. NO. 27781 of 1998

O R D E R

This writ petition is filed seeking a Writ of Mandamus to set aside the notice of the respondent dated 25.09.1998 issued to the petitioners in respect of their house, plots in R.S.No.277 of Movva village and Mandal, Krishna District, being illegal without jurisdiction and arbitrary and consequently to direct the respondents not to take any coercive steps pending disposal of the suits O.S. No. 179 of 1998, O.S. No. 180 of 1998, O.S. No.182 of 1998 and O.S. No. 183 of 1998 on the file of Senior Civil Judge, Avanigadda.

It is the case of the petitioners that they are in possession of their plots of 100-150 sq. yards each, which they purchased from their vendor, who purchased the entire pati land of Ac.4.12 cents from the then Chellapally Zamindar. They have been paying taxes regularly to the Gram Panchayat and they were in continuous physical possession and enjoyment of their respective plots having constructed houses, shops etc. When the respondent without issuing notice took steps to demolish their houses, they approached this Hon'ble Court in W.P. No. 25615 of 1997 and obtained stay of dispossession. Thereafter, the said writ petition was disposed of on the ground that there was a serious dispute of title, and granted status quo and directed to approach the competent Civil Court and accordingly they filed suits being O.S. Nos 179/98, 180/98, 182/98 and 183/98 on the file of

Senior Civil Judge, Avanigadda in which the respondent is a party along with the Gram Panchayat. The said suits were posted to 8-10-1998. Unless and until the title is decided, neither of the parties can presume ownership to themselves. While the matter stood thus, the respondent herein presuming ownership over their plots issued the impugned notices under Section 7 of Andhra Pradesh Land Encroachment Act, 1905, granting seven days time for vacating their plots, which are the subject matter of the suits. The notices were served on them on 27.09.1998, and they were asked to vacate their premises on or before 2-10-1998. As against the impugned notices they made representations to the respondent as well as District Collector who stated that they have to vacate their premises or else they will be forcibly vacated with the help of police and their respective shops, residential buildings etc. will be demolished. The respondent has no jurisdiction to issue the notice when the suits already filed for declaration of title against the defendants including the respondent herein, is pending adjudication.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue.

When once admittedly, civil suits are pending before the Civil Court between the parties including the respondent herein, the lis between the parties is ceased of by a competent Civil Court and the respective civil suits are pending adjudication. At this stage of the proceedings, the action of the Mandal Revenue Officer, who is one of the defendants in the civil suits in question, in issuing the notice in question, is nothing but sub judice. Therefore, this Court is of the view that the notice impugned herein is definitely without jurisdiction and illegal and therefore, the same is liable to be set aside.

The writ petition is, accordingly, allowed setting aside the notice

impugned. No costs.

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GOPALAKRISHNA

TAMADA,J
Dated: 14-3-2007
vp